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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2007-179

WILLIAM LAWRENCE SWARTZ, JR.
1847 Cherrywood Place
Manteca, CA 95336-2601

OAH No. 2007040310

Registered Nurse License No. 659288

Respondent

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the
Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on December 19, 2007

It is so ORDERED November 19, 2007



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN, JR., Attorney General
of the State of California
2 JESSICA M. AMGWERD, State Bar No. 155757
Deputy Attorney General
3 California Department of Justice
1300 I Street, Suite 125
4 P.O. Box 944255
Sacramento, CA 94244-2550
5 Telephone: (916) 324-5393
Facsimile: (916) 324-5567
6

7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:
12 **WILLIAM LAWRENCE SWARTZ, JR.**
1847 Cherrywood Place
13 Manteca, CA 95336-2601

14 Registered Nurse License No. 659288

15 Respondent

Case No. 2007-179

OAH No. 2007040310

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to
18 the above-entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Complainant Ruth Ann Terry, M.P.H., R.N., is the Executive Officer of
21 the Board of Registered Nursing. She brought this action solely in her official capacity and is
22 represented in this matter by Edmund G. Brown, Jr., Attorney General of the State of California,
23 by Jessica M. Amgwerd, Deputy Attorney General.

24 2. Respondent William Lawrence Swartz, Jr., Registered Nurse license No.
25 659288, is represented by Michael Platt, of The Law Offices of Michael Platt, located at 120
26 North Hunter Street, 3rd Floor, Stockton, CA 95202-1400.

27 3. On or about June 22, 2005, the Board of Registered Nursing issued
28 Registered Nurse License No. 659288 to William Lawrence Swartz, Jr., (Respondent).

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CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

IT IS HEREBY ORDERED that Registered Nurse License No. 659288 issued to Respondent William Lawrence Swartz, Jr. (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

3

1 **Severability Clause.** Each condition of probation contained herein is a separate
2 and distinct condition. If any condition of this Order, or any application thereof, is declared
3 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
4 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
5 and enforceable to the fullest extent permitted by law.

6 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws.
7 A full and detailed account of any and all violations of law shall be reported by Respondent to
8 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
9 compliance with this condition, Respondent shall submit completed fingerprint forms and
10 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
11 as part of the licensure application process.

12 **Criminal Court Orders:** If Respondent is under criminal court orders, including
13 probation or parole, and the order is violated, this shall be deemed a violation of these probation
14 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

15 2. **Comply with the Board's Probation Program.** Respondent shall fully
16 comply with the conditions of the Probation Program established by the Board and cooperate
17 with representatives of the Board in its monitoring and investigation of the Respondent's
18 compliance with the Board's Probation Program. Respondent shall inform the Board in writing
19 within no more than 15 days of any address change and shall at all times maintain an active,
20 current license status with the Board, including during any period of suspension.

21 Upon successful completion of probation, Respondent's license shall be fully
22 restored.

23 3. **Report in Person.** Respondent, during the period of probation, shall
24 appear in person at interviews/meetings as directed by the Board or its designated
25 representatives.

26 4. **Residency, Practice, or Licensure Outside of State.** Periods of
27 residency or practice as a registered nurse outside of California shall not apply toward a reduction
28 of this probation time period. Respondent's probation is tolled, if and when he resides outside of

1 California. Respondent must provide written notice to the Board within 15 days of any change
2 of residency or practice outside the state, and within 30 days prior to re-establishing residency or
3 returning to practice in this state.

4 Respondent shall provide a list of all states and territories where he has ever been
5 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
6 provide information regarding the status of each license and any changes in such license status
7 during the term of probation. Respondent shall inform the Board if she applies for or obtains a
8 new nursing license during the term of probation.

9 **5. Submit Written Reports.** Respondent, during the period of probation,
10 shall submit or cause to be submitted such written reports/declarations and verification of actions
11 under penalty of perjury, as required by the Board. These reports/declarations shall contain
12 statements relative to Respondent's compliance with all the conditions of the Board's Probation
13 Program. Respondent shall immediately execute all release of information forms as may be
14 required by the Board or its representatives.

15 Respondent shall provide a copy of this Decision to the nursing regulatory agency
16 in every state and territory in which she has a registered nurse license.

17 **6. Function as a Registered Nurse.** Respondent, during the period of
18 probation, shall engage in the practice of registered nursing in California for a minimum of 24
19 hours per week for 6 consecutive months or as determined by the Board.

20 For purposes of compliance with the section, "engage in the practice of registered
21 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
22 work in any non-direct patient care position that requires licensure as a registered nurse.

23 The Board may require that advanced practice nurses engage in advanced practice
24 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
25 Board.

26 If Respondent has not complied with this condition during the probationary term,
27 and Respondent has presented sufficient documentation of his good faith efforts to comply with
28 this condition, and if no other conditions have been violated, the Board, in its discretion, may

1 grant an extension of Respondent's probation period up to one year without further hearing in
2 order to comply with this condition. During the one year extension, all original conditions of
3 probation shall apply.

4 **7. Employment Approval and Reporting Requirements.** Respondent
5 shall obtain prior approval from the Board before commencing or continuing any employment,
6 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
7 performance evaluations and other employment related reports as a registered nurse upon request
8 of the Board.

9 Respondent shall provide a copy of this Decision to his employer and immediate
10 supervisors prior to commencement of any nursing or other health care related employment.

11 In addition to the above, Respondent shall notify the Board in writing within
12 seventy-two (72) hours after he obtains any nursing or other health care related employment.
13 Respondent shall notify the Board in writing within seventy-two (72) hours after he is terminated
14 or separated, regardless of cause, from any nursing, or other health care related employment with
15 a full explanation of the circumstances surrounding the termination or separation.

16 **8. Supervision.** Respondent shall obtain prior approval from the Board
17 regarding Respondent's level of supervision and/or collaboration before commencing or
18 continuing any employment as a registered nurse, or education and training that includes patient
19 care.

20 Respondent shall practice only under the direct supervision of a registered nurse
21 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
22 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
23 are approved.

24 Respondent's level of supervision and/or collaboration may include, but is not
25 limited to the following:

26 (a) Maximum - The individual providing supervision and/or collaboration is
27 present in the patient care area or in any other work setting at all times.

28 (b) Moderate - The individual providing supervision and/or collaboration is in

1 the patient care unit or in any other work setting at least half the hours Respondent works.

2 (c) Minimum - The individual providing supervision and/or collaboration has
3 person-to-person communication with Respondent at least twice during each shift worked.

4 (d) Home Health Care - If Respondent is approved to work in the home health
5 care setting, the individual providing supervision and/or collaboration shall have person-to-
6 person communication with Respondent as required by the Board each work day. Respondent
7 shall maintain telephone or other telecommunication contact with the individual providing
8 supervision and/or collaboration as required by the Board during each work day. The individual
9 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
10 site visits to patients' homes visited by Respondent with or without Respondent present.

11 9. **Employment Limitations.** Respondent shall not work for a nurse's
12 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
13 traveling nurse, or for an in-house nursing pool.

14 Respondent shall not work for a licensed home health agency as a visiting nurse
15 unless the registered nursing supervision and other protections for home visits have been
16 approved by the Board. Respondent shall not work in any other registered nursing occupation
17 where home visits are required.

18 Respondent shall not work in any health care setting as a supervisor of registered
19 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
20 nurses and/or unlicensed assistive personnel on a case-by-case basis.

21 Respondent shall not work as a faculty member in an approved school of nursing
22 or as an instructor in a Board approved continuing education program.

23 Respondent shall work only on a regularly assigned, identified and predetermined
24 worksite(s) and shall not work in a float capacity. If Respondent is working or intends to work in
25 excess of 40 hours per week, the Board may request documentation to determine whether there
26 should be restrictions on the hours of work.

27 10. **Complete a Nursing Course(s).** During the suspension period,
28 Respondent, at his own expense, shall enroll and successfully complete a course(s) relevant to

1 nursing practice issues set forth in Accusation No. 2007-179, and practice of registered nursing.
2 Such coursework shall be successfully completed within a time frame determined by the Board.
3 At his own expense, an additional course(s) may be required during the three-year probation
4 term. such additional coursework shall be relevant to the practice of registered nursing. The
5 course(s) shall be successfully completed within a time frame determined by the Board, but no
6 later than six months prior to the end of the probation term.

7 Respondent shall obtain prior approval from the Board before enrolling in the
8 course(s). Respondent shall submit to the Board the original transcripts or certificates of
9 completion for the required course(s). The Board shall return the original documents to
10 Respondent after photocopying them for its records.

11 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with
12 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
13 amount of Two Thousand Two Hundred and Five Dollars (\$2,205.00). Respondent shall be
14 permitted to pay these costs in a payment plan approved by the Board, with payments to be
15 completed no later than three months prior to the end of the probation term.

16 If Respondent has not complied with this condition during the probationary term,
17 and Respondent has presented sufficient documentation of his good faith efforts to comply with
18 this condition, and if no other conditions have been violated, the Board, in its discretion, may
19 grant an extension of Respondent's probation period up to one year without further hearing in
20 order to comply with this condition. During the one year extension, all original conditions of
21 probation will apply.

22 12. **Violation of Probation.** If Respondent violates the conditions of his
23 probation, the Board after giving Respondent notice and an opportunity to be heard, may set
24 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's
25 license.

26 If during the period of probation, an accusation or petition to revoke probation has
27 been filed against Respondent's license or the Attorney General's Office has been requested to
28 prepare an accusation or petition to revoke probation against Respondent's license, the

1 probationary period shall automatically be extended and shall not expire until the accusation or
2 petition has been acted upon by the Board.

3 **13. License Surrender.** During Respondent's term of probation, if he ceases
4 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
5 probation, Respondent may surrender his license to the Board. The Board reserves the right to
6 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
7 take any other action deemed appropriate and reasonable under the circumstances, without
8 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
9 will no longer be subject to the conditions of probation.

10 Surrender of Respondent's license shall be considered a disciplinary action and
11 shall become a part of Respondent's license history with the Board. A registered nurse whose
12 license has been surrendered may petition the Board for reinstatement no sooner than the
13 following minimum periods from the effective date of the disciplinary decision:

14 (1) Two years for reinstatement of a license that was surrendered for any
15 reason other than a mental or physical illness; or

16 (2) One year for a license surrendered for a mental or physical illness.

17 **14. Physical Examination.** Within 45 days of the effective date of this
18 Decision, Respondent, at Respondent's expense, shall have a licensed physician, nurse
19 practitioner, or physician assistant, who is approved by the Board before the assessment is
20 performed, submit an assessment of the Respondent's physical condition and capability to
21 perform the duties of a registered nurse. Such an assessment shall be submitted in a format
22 acceptable to the Board. If medically determined, a recommended treatment program will be
23 instituted and followed by the Respondent with the physician, nurse practitioner, or physician
24 assistant providing written reports to the Board on forms provided by the Board.

25 If Respondent is determined to be unable to practice safely as a registered nurse,
26 the licensed physician, nurse practitioner, or physician assistant making this determination shall
27 immediately notify the Board and Respondent by telephone, and the Board shall request that the
28 Attorney General's office prepare an accusation or petition to revoke probation. Respondent

1 shall immediately cease practice and shall not resume practice until notified by the Board.
2 During this period of suspension, Respondent shall not engage in any practice for which a license
3 issued by the Board is required until the Board has notified Respondent that a medical
4 determination permits Respondent to resume practice. This period of suspension will not apply
5 to the reduction of this probationary time period.

6 If Respondent fails to have the above assessment submitted to the Board within
7 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
8 practice until notified by the Board. This period of suspension will not apply to the reduction of
9 this probationary time period. The Board may waive or postpone this suspension only if
10 significant, documented evidence of mitigation is provided. Such evidence must establish good
11 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
12 provided. Only one such waiver or extension may be permitted.

13 **15. Participate in Treatment/Rehabilitation Program for Chemical**
14 **Dependence.** Respondent, at his expense, shall successfully complete during the probationary
15 period or shall have successfully completed prior to commencement of probation a Board-
16 approved treatment/rehabilitation program of at least six months duration. As required, reports
17 shall be submitted by the program on forms provided by the Board. If Respondent has not
18 completed a Board-approved treatment/rehabilitation program prior to commencement of
19 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
20 a program. If a program is not successfully completed within the first nine months of probation,
21 the Board shall consider Respondent in violation of probation.

22 Based on Board recommendation, each week Respondent shall be required to
23 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics
24 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed
25 by the Board. If a nurse support group is not available, an additional 12-step meeting or
26 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
27 such attendance to the Board during the entire period of probation. Respondent shall continue

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1 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
2 mental health examiner and/or other ongoing recovery groups.

3 **16. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
4 shall completely abstain from the possession, injection or consumption by any route of all
5 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when
6 the same are ordered by a health care professional legally authorized to do so as part of
7 documented medical treatment. Respondent shall have sent to the Board, in writing and within
8 fourteen (14) days, by the prescribing health professional, a report identifying the medication,
9 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the
10 medication will no longer be required, and the effect on the recovery plan, if appropriate.

11 Respondent shall identify for the Board a single physician, nurse practitioner or
12 physician assistant who shall be aware of Respondent's history of substance abuse and will
13 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
14 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
15 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
16 condition. If any substances considered addictive have been prescribed, the report shall identify a
17 program for the time limited use of any such substances.

18 The Board may require the single coordinating physician, nurse practitioner, or
19 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
20 addictive medicine.

21 **17. Submit to Tests and Samples.** Respondent, at his expense, shall
22 participate in a random, biological fluid testing or a drug screening program which the Board
23 approves. The length of time and frequency will be subject to approval by the Board.
24 Respondent is responsible for keeping the Board informed of Respondent's current telephone
25 number at all times. Respondent shall also ensure that messages may be left at the telephone
26 number when Respondent is not available and ensure that reports are submitted directly by the
27 testing agency to the Board, as directed. Any confirmed positive finding shall be reported

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1 immediately to the Board by the program and Respondent shall be considered in violation of
2 probation.

3 In addition, Respondent, at any time during the period of probation, shall fully
4 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
5 tests and samples as the Board or its representatives may require for the detection of alcohol,
6 narcotics, hypnotics, dangerous drugs, or other controlled substances.

7 If Respondent has a positive drug screen for any substance not legally authorized
8 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
9 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent
10 from practice pending the final decision on the petition to revoke probation or the accusation.
11 This period of suspension will not apply to the reduction of this probationary time period.

12 If Respondent fails to participate in a random, biological fluid testing or drug
13 screening program within the specified time frame, Respondent shall immediately cease practice
14 and shall not resume practice until notified by the Board. After taking into account documented
15 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the
16 Board may suspend Respondent from practice pending the final decision on the petition to
17 revoke probation or the accusation. This period of suspension will not apply to the reduction of
18 this probationary time period.

19 18. **Mental Health Examination.** Respondent shall, within 45 days of the
20 effective date of this Decision, have a mental health examination including psychological testing
21 as appropriate to determine Respondent's capability to perform the duties of a registered nurse.
22 The examination will be performed by a psychiatrist, psychologist or other licensed mental health
23 practitioner approved by the Board. The examining mental health practitioner will submit a
24 written report of that assessment and recommendations to the Board. All costs are the
25 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
26 result of the mental health examination will be instituted and followed by Respondent.

27 If Respondent is determined to be unable to practice safely as a registered nurse,
28 the licensed mental health care practitioner making this determination shall immediately notify

1 the Board and Respondent by telephone, and the Board shall request that the Attorney General's
2 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
3 practice and may not resume practice until notified by the Board. During this period of
4 suspension, Respondent shall not engage in any practice for which a license issued by the Board
5 is required, until the Board has notified Respondent that a mental health determination permits
6 Respondent to resume practice. This period of suspension will not apply to the reduction of this
7 probationary time period.

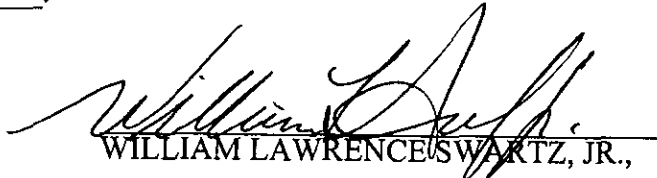
8 If Respondent fails to have the above assessment submitted to the Board within
9 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
10 practice until notified by the Board. This period of suspension will not apply to the reduction of
11 this probationary time period. The Board may waive or postpone this suspension only if
12 significant, documented evidence of mitigation is provided. Such evidence must establish good
13 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
14 provided. Only one such waiver or extension may be permitted.

15 **19. Therapy or Counseling Program.** Respondent, at Respondent's own
16 expense, shall participate in an on-going counseling program until such time as the Board
17 releases Respondent from this requirement and only upon the recommendation of the counselor.
18 Written progress reports from the counselor will be required at various intervals.

1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order. I understand
3 the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated
4 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound
5 by the Decision and Order of the Board of Registered Nursing.


6 DATED: 10/18/07.

7
8 
9 WILLIAM LAWRENCE SWARTZ, JR.,

Respondent

10
11 DATED: 10/18/07.

12 LAW OFFICES OF MICHAEL PLATT

13 
14 MICHAEL PLATT
Attorney for Respondent

15 ENDORSEMENT

16 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted
17 for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

18 DATED: 10-23-2007.

19
20 EDMUND G. BROWN, JR., Attorney General
21 of the State of California

22 
23 JESSICA M. AMGWERD
24 Deputy Attorney General

25 Attorneys for Complainant
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Exhibit A
Accusation No. 2007-179

1 BILL LOCKYER, Attorney General
of the State of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 JESSICA M. AMGWERD, State Bar No. 155757
Deputy Attorney General
4 California Department of Justice
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-7376
Facsimile: (916) 327-8643

7 Attorneys for Complainant
8

9
10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2007 - 179

13 **WILLIAM LAWRENCE SWARTZ, JR.**
1847 Cherrywood Place
14 Manteca, CA 95336-2601

A C C U S A T I O N

15 Registered Nurse License No. 659288

16 Respondent.
17

18 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

19 **PARTIES**

20 1. Complainant brings this Accusation solely in her official capacity as the
21 Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.

22 **Registered Nurse License**

23 2. On or about June 22, 2005, the Board of Registered Nursing issued
24 Registered Nurse License Number 659288 to William Lawrence Swartz, Jr. ("Respondent").
25 The Registered Nurse License will expire on August 31, 2008, unless renewed.

26 **STATUTORY PROVISIONS**

27 3. Section 2750 of the Business and Professions Code ("Code") provides, in
28 pertinent part, that the Board may discipline any licensee, including a licensee holding a

1 temporary or an inactive license, for any reason provided in Article 3 (commencing with Code
2 section 2750) of the Nursing Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a
4 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
5 against the licensee or to render a decision imposing discipline on the license. Under Code
6 section 2811, subdivision (b), the Board may renew an expired license at any time within eight
7 years after the expiration.

8 5. Code section 2761 states, in pertinent part:

9 The board may take disciplinary action against a certified or licensed nurse
10 or deny an application for a certificate or license for any of the following:

11 (a) Unprofessional conduct. . . ,

12 (f) Conviction of a felony or of any offense substantially related to the
13 qualifications, functions, and duties of a registered nurse, in which event the
record of the conviction shall be conclusive evidence thereof.

14 6. Code section 2762 states, in pertinent part:

15 In addition to other acts constituting unprofessional conduct within the
16 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct
for a person licensed under this chapter to do any of the following:

17 (b) Use any controlled substance as defined in Division 10 (commencing
18 with Section 11000) of the Health and Safety Code, or any dangerous drug or
dangerous device as defined in Section 4022, or alcoholic beverages, to an extent
19 or in a manner dangerous or injurious to himself or herself, any other person, or
the public or to the extent that such use impairs his or her ability to conduct with
20 safety to the public the practice authorized by his or her license.

21 (c) Be convicted of a criminal offense involving the prescription,
consumption, or self-administration of any of the substances described in
22 subdivisions (a) and (b) of this section, or the possession of, or falsification of a
record pertaining to, the substances described in subdivision (a) of this section, in
23 which event the record of the conviction is conclusive evidence thereof.

24 COST RECOVERY

25 7. Code section 125.3 provides, in pertinent part, that the Board may request
26 the administrative law judge to direct a licensee found to have committed a violation or
27 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
28 and enforcement of the case.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Criminal Convictions)**

3 8. Respondent is subject to discipline under Code section 2761, subdivision
4 (f), in that Respondent has been convicted of the following crimes that are substantially related to
5 the qualifications, functions, and duties of a registered nurse:

6 a. On October 28, 2005, in the Superior Court, County of San Joaquin, in the
7 case entitled *People of the State of California vs. William Swartz*, (Super Ct., 2005, Case No.
8 SM246770A), Respondent was convicted by the court on his plea of guilty of violating Penal
9 Code section 273.5, subdivision (a) (inflict corporal injury to spouse), a misdemeanor.

10 b. On May 17, 2004, in the Superior Court, County of San Joaquin, in the
11 case entitled *People of the State of California vs. William Swartz*, (Super Ct., 2004, Case No.
12 LM030259A), Respondent was convicted by the court on his plea of guilty of violating Penal
13 Code section 647, subdivision (f) (found to be under the influence of intoxicating alcohol in a
14 public place), a misdemeanor.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Conviction of a Crime Involving Alcohol)**

17 9. Respondent is subject to discipline under Code section 2761, subdivision
18 (a), on the grounds of unprofessional conduct as defined in Code section 2762, subdivision (c),
19 in that on or about May 17, 2004, Respondent was convicted of a crime involving alcoholic
20 beverages, as more particularly set forth in paragraph 8, above.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Use Alcohol to an Extent or in a Manner Dangerous or Injurious)**

23 10. Respondent is subject to discipline under Code section 2761, subdivision
24 (a) on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (b), in
25 that on April 5, 2004, Respondent used alcoholic beverages to an extent, or in a manner
26 dangerous or injurious to himself or others, as more particularly set forth in paragraph 8, above.

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1 **PRAYER**


2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 659288, issued
5 to William Lawrence Swartz, Jr.;

6 2. Ordering William Lawrence Swartz, Jr. to pay the Board of Registered
7 Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Code
8 section 125.3; and,

9 3. Taking such other and further action as deemed necessary and proper.
10

11
12 DATED: 12/21/06
13

14 
15 RUTH ANN TERRY, M.P.H., R.N.
16 Executive Officer
17 Board of Registered Nursing
18 Department of Consumer Affairs
19 State of California
20 Complainant
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